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Moynihan Will Seek to Eliminate Press Penalties in Intelligence Bill

By IRVIN MOLOTSKY

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WASHINGTON, Feb. 20 — Senator Daniel Patrick Moynihan said today that he would seek to remove from a pending intelligence bill a section making it a criminal act for the press to disclose the names of intelligence agents.

Senator Moynihan, a New York Democrat who is a member of the Senate's Select Committee on Intelligence and a sponsor of the measure, said that he would move to strike the section when the committee met tomorrow to take up proposed changes in intelligence laws.

The Senator said in an interview that he had become convinced of the undesirability of providing penalties for the press after discussing it with Floyd Abrams, the New York lawyer who has made a specialty of First Amendment cases.

Such a provision "might have a chilling effect," Senator Moynihan said, adding: "We have almost always decided those close cases on the side of accepting the

risks of disclosure as being preferable to any inhibition on the freedom of the press to publish."

Asked why he had introduced the matter in the first place, the Senator said he had done so to speed Congressional action on measures concerning the Central Intelligence Agency and other intelligence matters. "We simply took the House committee bill, which had been introduced already," he said.

Open to Discussion

Of the part establishing criminal liability for the press, Senator Moynihan said that he had commented earlier that expressions of concern were a "fair point" and that "if there is a problem we will talk about it."

That there was a problem became apparent when editors and lawyers complained about it, with Mr. Abrams telling a House of Representatives committee last month that the press measure would be "flatly and facially unconstitutional."

Mr. Abrams cited as an example the case of Francis Gary Powers, the pilot of the U-2 reconnaissance plane shot down

over the Soviet Union in 1960. If such a law had been in effect then, Mr. Abrams said, every publication that used Mr. Powers's name would have been subject to criminal prosecution even though the Soviet Union had disclosed the incident and was holding Mr. Powers in custody.

The rest of the proposed measure remains intact, Senator Moynihan said. One section would reduce from eight to two the number of Congressional committees that oversee C.I.A. activities.

Intelligence Bodies Exempted

Another part would exempt the Central Intelligence Agency and other intelligence bodies from most provisions of the Freedom of Information Act. Senator Moynihan said that it was "absurd" to allow "an agent of the K.G.B." to seek intelligence under the act. While he acknowledged that no agent of the Soviet intelligence organization had apparently

actually obtained such information, he asserted that such applications had been made by Polish officials.

The third part of the measure contains two parts — the press section that Mr. Moynihan will seek to strike and another one that he will retain. The latter would make it a crime for a present or former intelligence agency official, or anyone else with authorized access to the names of undercover agents, to divulge those names.

Thus, if the bill passes in the form the Senator intends, the person giving the names to a publication could be prosecuted but the publication that printed them could not.

Asked to assess the likelihood of success in removing the press provision, Senator Moynihan said that he thought his request would do "pretty well."

Mr. Moynihan actually signaled his change of position in a Senate speech Feb. 8 in which he reported Mr. Abrams's concern about the press proposals.